

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & ADMIRALTY DIVISION

MISC CIVIL APPLICATION CASE NO. 456 OF 2015

PARBAT SIYANI CONSTRUCTION LIMITED.....1ST APPLICANT

- VERSUS -

I & M BANK LIMITED.....2ND APPLICANT

RULING

1. The Notice of Motion dated **15th October, 2015** seeks orders that the Fourth Further Debenture and Supplemental Further Charge dated 14th August, 2015 made by **Parbat Siyani Construction Limited** in favour of **I & M Bank Limited, charging LR No. 12715/9427 Machakos**, be registered outside the statutory 42 days period and that a further 45 days be provided for that purpose. The Application is grounded on the affidavit annexed thereto of **Daljit K. Solanki** Advocate, sworn on 15th October, 2015.
2. The Application has been brought pursuant to Section 3A of the Civil Procedure Act Section 96 and 102 of the Companies Act, Cap 486 Law of Kenya Order 51 Rule 1 of the Civil Procedure Rules and Rule 8 (b) of the Companies (High Court) Rules. The grounds relied upon and that:
 1. The 1st Applicant obtained additional banking facility of Kshs 370,000,00/- from the 2nd Applicant, and that amongst the securities was a Fourth Further Debenture over all of the 1st Applicants undertakings and assets as well as a Supplemental Further Charge over **LR 12715/9427 Machakos**.
 2. That although the Fourth Further Debenture and Supplemental Further Charge were duly assessed for stamp duty on 18th August, 2015 there was a delay in paying the same, for which reason the aforesaid documents could not be registered within the Statutory 42 days as provided by Section 96 of the Companies Act.
 3. That there is no prospect of prejudice to either party and no creditor will be affected if the time for registration of the documents at the Companies Registry is extended, as the failure was not deliberate or done with a fraudulent intention.
3. The Court has carefully considered the foregoing grounds as well as the averments set out in the Supporting Affidavit. The Court is satisfied that the omission to register the Charge and Debenture within the time prescribed by Section 96 of the Companies Act was due to inadvertence, and that no prejudice will be occasioned to any of the parties by reason of the proposed extension.
4. Accordingly, the application dated 15th October, 2015 is hereby allowed and orders granted as prayed in Paragraph 1 and 2 thereof.

It is so ordered.

RULING SIGNED, DATED AND DELIVERED AT NAIROBI THIS 27TH DAY OF OCTOBER 2015

OLGA SEWE

JUDGE